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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,089

07/21/2006

Jaime Gomez Gonzalez

ASP 206

8904

7590
Horst M. Kasper
13 Forest Drive
Warren, NJ 07059

09/11/2008

EXAMINER

SCHILLER, ALINA

ART UNIT

PAPER NUMBER

3671

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,089	Applicant(s) GONZALEZ, JAIME GOMEZ	
	Examiner ALINA SCHILLER	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because Fig. 1 is unclear and darkened. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

3. The disclosure is objected to because of the following informalities: in page 7, lines 13-18, reference character (4) has been used to designate different parts, such as 'rib' (in line 13), 'body' (in line 17) and 'area' (in line 18).

Appropriate correction is required.

Claim Objections

4. Claims 1 and 2 are objected to because the terms “sections” (claim 1, line 5) “bodies” (claim 1, line 11) and “elements” (claim 2, line 3) have been used for the same feature. Appropriate correction is required for consistency of terminology.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Regarding claim 1, the phrase "preferably" (line 3) renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gank 6,647,648 in view of Tokikawa et al 5,418,036.

Regarding claim 1, Gank discloses a modular access tile and frame flooring covering intended for covering flat surfaces, preferably horizontal surfaces (Fig. 1; Abstract), comprising hexagonal sections (Figs. 1-4; col. 1, lines 47-49; 65-67), which have straight and parallel longer sides (Figs. 1-3), wherein the ends of the four remaining sides are positioned in pairs at an angle of 90 degrees (col. 1, lines 51-52, Figs. 1-4) and incorporate, at each of the ends of the shorter sides, a recess (25) having a similar dimension with that of a tongue (24) positioned on the adjacent side, wherein the hexagonal sections are subdivided into two trapezoidal areas by a longitudinal line.

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The examiner notes that the phrase “for road surfaces” is for intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. It is the examiner position that Gank's device is capable of meeting the limitation in claim 1.

However, Gank fails to disclose that the hexagonal sections are subdivided into two trapezoidal areas by a projection which has a longitudinal split line. Tokikawa teaches that it is well known in the art of tile and frame flooring systems to have a longitudinal projection having a longitudinal split line (3, Figs. 3, 4), which demarcates the regions (R) in which the tiles (T) are laid (col. 5, lines 42-47), which functions as positioning guides for tiles, in order to reliably support the tiles (col. 6, lines 34-39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Gank to have a projection having a longitudinal split line, similar to that of Tokikawa, in order to guide and reliably support the tiles, as taught by Tokikawa.

Regarding claim 2, the combination above discloses that the hexagonal sections, when joined, form a quadrangular lattice that serves as a support frame (Figs. 1-4) for laminar elements (13 of Gank) laid between the hexagonal sections.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gank 6,647,648 in view of Donnellan 2002/0148129.

With respect to claim 1, see discussion regarding applying Gank reference above.

Donnellan teaches that it is well known in the art to have a longitudinal projection (3, Figs. 1 and 9) having a longitudinal split line, which aids in aligning tiles (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Gank to comprise a longitudinal projection having a longitudinal split line, similar to that of Donnellan, in order to aid in aligning tiles, as taught by Donnellan.

Regarding claim 2, the combination above discloses that the hexagonal sections, when joined, form a quadrangular lattice that serves as a support frame (Figs. 1-4 of Gank) for laminar elements (13 of Gank) laid between the hexagonal sections.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALINA SCHILLER whose telephone number is (571)270-3088. The examiner can normally be reached on Mon-Fri, 7:30AM-4:00PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571)272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas B Will/
Supervisory Patent Examiner
Art Unit 3671

AS